

Introduced by Senator Costa

February 28, 1997

An act to amend Section 1799.111 of the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1111, as introduced, Costa. Health care: mental health.

Existing law provides that a general acute care hospital, its licensed professional staff, or any physician and surgeon providing emergency medical services to a person at the hospital, shall not be civilly or criminally liable for detaining a person, or for the actions of the person following release from the hospital, if certain conditions exist. Existing law provides that these conditions include that in the opinion of the treating physician and surgeon the person cannot be safely released from the hospital because he or she presents a danger to himself or others or is gravely disabled, and that the hospital staff or treating physician and surgeon have made, and documented, repeated unsuccessful efforts to find appropriate mental health treatment for the person.

This bill would amend these provisions to also make them apply when an appropriate mental health professional has satisfied these requirements, instead of a physician and surgeon.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1799.111 of the Health and
2 Safety Code is amended to read:

3 1799.111. (a) A licensed general acute care hospital,
4 as defined by subdivision (a) of Section 1250, licensed
5 professional staff of the hospital, or any physician and
6 surgeon, providing emergency medical services to a
7 person at the hospital shall not be civilly or criminally
8 liable for detaining a person, or for the actions of the
9 person after release from the hospital, if all of the
10 following conditions exist:

11 (1) The person cannot be safely released from the
12 hospital because, in the opinion of the treating physician
13 and surgeon, *or appropriate mental health professional*,
14 the person, as a result of a mental disorder, presents a
15 danger to himself or herself, or others, or is gravely
16 disabled. For purposes of this paragraph, “gravely
17 disabled” means an inability to provide for his or her basic
18 personal needs of food, clothing, or shelter.

19 (2) The hospital staff—~~or~~, treating physician and
20 surgeon, *or appropriate mental health professional*, have
21 made, and documented, repeated unsuccessful efforts to
22 find appropriate mental health treatment for the person.

23 (3) The person is not detained beyond eight hours.

24 (b) Nothing in this section shall affect the
25 responsibility of a general acute care hospital to comply
26 with all state laws and regulations pertaining to the use of
27 seclusion and restraint and psychiatric medications for
28 psychiatric patients. Persons detained under this section
29 shall retain their legal rights regarding consent for
30 medical treatment.

31 (c) A person detained under this section shall be
32 credited for the time detained, up to eight hours, in the
33 event he or she is placed on a subsequent 72-hour hold
34 pursuant to Section 5150 of the Welfare and Institutions
35 Code.

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